

\*\*E-Filed 12/21/05\*\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HORTA, LLC,

Plaintiff,

v.

CITY OF SAN JOSE,

Defendant.

Case Number C 02-04086 JF (RS)

ORDER<sup>1</sup> RE MOTIONS TO QUASH

On September 20, 2005, the Federal Aviation Administration (“FAA”) filed a motion to quash subpoenas for testimony of John Howard (“Howard”), employed by the FAA’s San Jose Flights Standards District Office, and Brandi Williamson, employed by the FAA’s Office of the Chief Counsel in Washington, D.C., and for production of documents. On October 14, 2005, the FAA filed a second motion to quash subpoenas for testimony by Joseph Conte, employed by the FAA’s Office of the Chief Counsel in Washington, D.C., and “the person(s) most knowledgeable regarding the Federal Aviation Administration’s (“FAA”) denial of Fry’s Electronics, Inc.’s

<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 Request for Letter of Deviation authority,” identified as Howard. The Court heard oral argument  
2 on both motions to quash on December 16, 2005.

3 At the hearing, counsel for Plaintiff Horta, LLC (“Horta”) noted that Exhibit C of the  
4 Supplemental Declaration of Monroe P. Balton lists the documents that the FAA is currently  
5 withholding from Horta based solely on the deliberative process privilege. In order to evaluate  
6 whether the FAA is justified in withholding these documents based on the deliberative process  
7 privilege, the Court will review these documents *in camera*. Accordingly, the FAA shall submit  
8 the documents listed in Exhibit C of the Supplemental Declaration of Monroe P. Balton to the  
9 Court, in sealed envelopes delivered to chambers, on or before December 28, 2005. Once review  
10 is completed, the Court will issue an order instructing the parties as to how they should proceed  
11 with respect to this discovery issue.

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13 DATED: December 21, 2005  
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16 /s/ electronic signature authorized  
17 JEREMY FOGEL  
18 United States District Judge  
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1 This Order has been served upon the following persons:

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